

AMENDED IN ASSEMBLY JANUARY 5, 2010

AMENDED IN ASSEMBLY JULY 1, 2009

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE MAY 18, 2009

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE APRIL 21, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 602

Introduced by Senator Padilla
(Coauthors: Senators Denham and DeSaulnier)

February 27, 2009

An act to amend Sections 113947.2 and 113947.3 of, and to add Sections 113790 and 113948 to, the Health and Safety Code, relating to food safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as amended, Padilla. Food safety.

The California Retail Food *Code* provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Under existing law, a violation of these provisions is a misdemeanor. Local health agencies are primarily responsible for enforcing this law.

This law generally requires food facilities, except temporary food facilities, to have an owner or employee who has successfully passed an approved and accredited food safety certification examination from

an accredited food protection manager certification organization, except as specified.

This bill would require at least one of the accredited food safety certification examinations to be offered online.

This bill would also require, commencing January 1, 2011, a food handler, as defined, to obtain a food handler card. *The bill would require food handlers hired after January 1, 2011, to obtain a food handler card within 30 days of his or her date of hire, and would require all other food handlers to obtain a food handler card prior to February 1, 2011. It would require each food handler to maintain a valid food handler card for the duration of his or her employment as a food handler.*

This bill would exempt from compliance any food handler subject to an existing local food handler program that took effect prior to January 1, 2009, and would also require a food facility that employs food handlers to maintain records documenting that each food handler employed by the facility possesses a food handler card. The bill would require at least one food handler training course to cost no more than \$15 and, if a training course is not available at that cost, would remove the requirement to obtain a food handler card.

By creating a new crime and expanding the duties of local enforcement officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 113790 is added to the Health and Safety
- 2 Code, to read:
- 3 113790. "Food handler" means an individual who is involved
- 4 in the preparation, storage, or service of food in a food facility,
- 5 other than an individual holding a valid food safety certificate

1 issued pursuant to Section 113947.3 or an individual involved in
2 the preparation, storage, or service of food in a temporary food
3 facility.

4 SEC. 2. Section 113947.2 of the Health and Safety Code is
5 amended to read:

6 113947.2. The food safety certification examination for
7 purposes of Section 113947.1 shall include, but need not be limited
8 to, all of the following elements of knowledge:

9 (a) Foodborne illness, including terms associated with foodborne
10 illness, micro-organisms, hepatitis A, and toxins that can
11 contaminate food and the illness that can be associated with
12 contamination, definition and recognition of potentially hazardous
13 foods, chemical, biological, and physical contamination of food,
14 and the illnesses that can be associated with food contamination,
15 and major contributing factors for foodborne illness.

16 (b) The relationship between time and temperature with respect
17 to foodborne illness, including the relationship between time and
18 temperature and micro-organisms during the various food handling,
19 preparation, and serving states, and the type, calibration, and use
20 of thermometers in monitoring food temperatures.

21 (c) The relationship between personal hygiene and food safety,
22 including the association of hand contact, personal habits and
23 behaviors, and food employee health to foodborne illness, and the
24 recognition of how policies, procedures, and management
25 contribute to improved food safety practices.

26 (d) Methods of preventing food contamination in all stages of
27 food handling, including terms associated with contamination and
28 potential hazards prior to, during, and after delivery.

29 (e) Procedures for cleaning and sanitizing equipment and
30 utensils.

31 (f) Problems and potential solutions associated with facility and
32 equipment design, layout, and construction.

33 (g) Problems and potential solutions associated with temperature
34 control, preventing cross-contamination, housekeeping, and
35 maintenance.

36 SEC. 3. Section 113947.3 of the Health and Safety Code is
37 amended to read:

38 113947.3. (a) Food safety certification required pursuant to
39 Section 113947.1 shall be achieved by successfully passing an
40 examination from an accredited food protection manager

1 certification organization. The certification organization shall be
2 accredited by the American National Standards Institute as meeting
3 the requirements of the Conference for Food Protection's
4 "Standards for Accreditation of Food Protection Manager
5 Certification Programs." Those food employees who successfully
6 pass an approved certification examination shall be issued a
7 certificate by the certifying organization. The issuance date for
8 each original certificate issued pursuant to this section shall be the
9 date when the individual successfully completes the examination.
10 Certificates shall be valid for five years from the date of original
11 issuance. Any replacement or duplicate certificate shall have as
12 its expiration date the same expiration date that was on the original
13 certificate.

14 (b) (1) By July 20, 2008, the department, in consultation with
15 the California Conference of Directors of Environmental Health,
16 representatives of the retail food industry, and other interested
17 parties, shall develop and implement a program for the purposes
18 of demonstrating adequate knowledge for operators of temporary
19 food facilities.

20 (2) At least one of the accredited food safety certification
21 examinations shall cost no more than sixty dollars (\$60), including
22 the certificate. However, the department may adjust the cost of
23 food safety certification examinations to reflect actual expenses
24 incurred in producing and administering the food safety
25 certification examinations required under this section. If a food
26 safety certification examination is not available at the price
27 established by the department, the certification and recertification
28 requirements relative to food safety certification examinations
29 imposed by this section shall not apply.

30 (3) At least one of the accredited food safety certification
31 examinations shall be offered online.

32 SEC. 4. Section 113948 is added to the Health and Safety Code,
33 to read:

34 113948. (a) (1) Commencing January 1, 2011, and subject to
35 the exceptions described in subdivision (d), a food handler shall
36 obtain a food handler card from ~~an~~ a food protection manager
37 certification organization described in Section ~~113947.3~~ ~~within 30~~
38 ~~days after the date of hire, and 113947.3. Food handlers hired on~~
39 ~~or after January 1, 2011, shall obtain a food handler card within~~
40 ~~30 days after the date of hire. All other food handlers shall obtain~~

1 *a food handler card prior to February 1, 2011. Each food handler*
2 *shall maintain a valid food handler card for the duration of his or*
3 *her employment as a food handler.*

4 (2) Food handler cards shall be valid for three years from the
5 date of issuance, regardless of whether the food handler changes
6 employers during that period.

7 (3) A food handler card shall be recognized throughout the state,
8 ~~including for purposes of a food handler program except in~~
9 ~~jurisdictions~~ described in subdivision (e).

10 (b) A food handler card shall be issued only upon successful
11 completion of an approved food handler training course and
12 assessment that meets at least all of the following requirements:

13 (1) The course provides basic, introductory instruction on the
14 elements of knowledge described in subdivisions ~~(a) to (g)~~,
15 ~~inclusive~~, (a), (b), (c), (d), (e), and (g) of Section 113947.2.

16 (2) The course and assessment is designed to be completed
17 within approximately two and one-half hours.

18 (3) The assessment consists of at least 40 questions regarding
19 the required subject matter.

20 (4) A minimum score of 70 percent on the assessment is required
21 to successfully complete the assessment.

22 (c) The food handler training course and assessment may be
23 offered through a trainer-led class and assessment *or self-training*
24 *and assessment. For purposes of this section, “self-training and*
25 *assessment” means a process where the individual trains, and takes*
26 *an assessment, without the presence or intervention of a trainer or*
27 *instructor, and includes, but is not limited to, training and*
28 *assessment through the use of a computer program or the Internet.*

29 (d) This section shall not apply to a food handler who is
30 employed by any of the following:

31 (1) Certified farmer’s markets.

32 (2) Commissaries.

33 (3) Grocery stores, except for separately owned food facilities
34 to which this section otherwise applies that are located in the
35 grocery store. For purposes of this paragraph, “grocery store”
36 means a store primarily engaged in the retail sale of canned food,
37 dry goods, fresh fruits and vegetables, and fresh meats, fish, and
38 poultry. “Grocery store” includes convenience stores.

39 (4) Licensed health care facilities.

40 (5) Mobile support units.

1 (6) Public and private school cafeterias.

2 (7) Restricted food service facilities.

3 (8) Retail stores in which a majority of sales are from a
4 pharmacy, as defined in Section 4037 of the Business and
5 Professions Code.

6 ~~(e) The requirements of this section shall not apply to food~~
7 ~~handlers who possess a valid food handler card or certification~~
8 ~~issued pursuant to a food handler program that took effect prior~~
9 ~~to January 1, 1998, but only in the form in which the program~~
10 ~~existed prior to January 1, 1998.~~

11 *(e) The requirements of this section shall not apply to a food*
12 *handler subject to an existing local food handler program that*
13 *took effect prior to January 1, 2009.*

14 *(f) Each food facility that employs a food handler subject to the*
15 *requirements of this section shall maintain records documenting*
16 *that each food handler employed by the food facility possesses a*
17 *valid food handler card, and shall provide those records to the*
18 *local enforcement officer upon request.*

19 *(g) At least one food handler training course and assessment*
20 *shall cost no more than fifteen dollars (\$15), including a food*
21 *handler card. If a food handler training course and assessment is*
22 *not available at that cost, the requirement to obtain a food handler*
23 *card imposed by this section shall not apply.*

24 SEC. 5. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution for certain
26 costs that may be incurred by a local agency or school district
27 because, in that regard, this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty for a crime
29 or infraction, within the meaning of Section 17556 of the
30 Government Code, or changes the definition of a crime within the
31 meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 However, if the Commission on State Mandates determines that
34 this act contains other costs mandated by the state, reimbursement
35 to local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code.